
In Re:
Anthony H Brown,
Debtor,

Case No. 04-33984
Chapter 13 Case

NOTICE OF HEARING AND MOTION FOR RELIEF FROM THE STAY

TO: Debtor(s) and other entities specified in Local Rule 9013-3.

1. Ford Motor Credit Company moves the Court for the relief requested below and gives notice of hearing.
2. The Court will hold a hearing on this motion on October 25, 2004 at 9:30 AM o'clock, in Courtroom No. 228A, Second Flr, United States Courthouse, 316 North Robert St., St. Paul, MN.
3. Any response to this motion must be filed and delivered not later than October 20, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than October 14, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§157 and 1334, Fed. R. Bankr. P. 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this case was filed on July 8, 2004. The case is now pending in this court.
5. This motion arises under 11 U.S.C. §362(d) and 1301(c), and Fed. R. Bankr. P. 4001. This motion is filed under Fed. R. Bankr. P. 9014 and Local Rules 9006-1, 9013-1 through 9013-3, and 9017-1. Movant seeks relief from the automatic stay in §362(a) to foreclose its lien against the 2003 FORD FOCUS (the collateral), and from the codebtor stay to pursue collection and repossession remedies against the codebtor, Loyda Torres, and requests the court permit Movant

- to immediately enforce the order requested, lifting the 10 day stay imposed by Rule 4001(a)(3).
6. Movant requests relief from the stay for cause under §362(d)(1). Debtor is delinquent under the terms of the original contract with Movant and under the Chapter 13 Plan.
 7. Movant requests relief from the codebtor stay under §1301(c)(1) and (2). The codebtor received consideration for the claim upon becoming a co-owner or co-lessee of the vehicle. Also, the Plan is not providing for payment by the Debtor.
 8. Movant gives notice that it may, if necessary, call the person who signed the verification to this motion, or some other representative of Movant, from Movant's offices in Minnesota, to testify regarding the debt and value.
 9. This notice of motion and motion also serve as notice of default required by Cobb v. Midwest Recovery Bureau Co., 295 N.W.2d 232 (Minn.1980). If the default is not cured before the hearing, Movant will repossess the property promptly upon the Court signing the Order.
 10. A separate Memorandum of Fact and Law is attached hereto and made a part hereof.

WHEREFORE, Ford Motor Credit Company moves the Court for an order modifying the automatic stay of §362(a) and the codebtor stay of §1301(a), if applicable, and such other relief as may be just and equitable.

Dated: October 8, 2004

STEWART, ZLIMEN & JUNGERS, LTD.

/e/ Linda Jeanne Jungers

Linda Jeanne Jungers, Atty ID #5303X

Attorneys for Movant

430 Oak Grove Street #200

Minneapolis, MN 55403

612-870-4100

This is a communication from a debt collector attempting to collect a debt. Any information obtained will be used for that purpose.

MINNESOTA DEPARTMENT OF PUBLIC SAFETY
DRIVER & VEHICLE SERVICES DIVISION
445 MINNESOTA ST., ST. PAUL, MN 55101
CONFIRMATION OF LIEN PERFECTION - DEBTOR NAME

BROWN ANTHONY HUGH
TORRES LOYDA
421 MARY ST SOUTH
MAPLEWOOD MN 55119

Permit No. 171
St. Paul, MN

*

GS753

1ST SECURED PARTY

LIEN HOLDER

| | | | |
|--------------------------|--------------|---------------------------|------------------------|
| 03 Year | FORD Make | 4HFX5 Model | H3010R107 Title NR. |
| 3FAFP37373R147305 VIN | | 10/11/03 Security Date | NO Rebuilt |

RETAIN THIS DOCUMENT - See reverse
side of this form for removing this lien.

FMCC
PO BOX 105704
ATLANTA GA 30348-5704

EXHIBIT A

| | |
|--|---|
| Buyer (and Co-Buyer) Name and Address (including County and Zip Code) | CREDITOR (Seller Name and Address) |
| LOYDA TORRES ANTHONY H BROWN 421 MARY STREET MAPLEWOOD MN 55119 | MIKE MURPHY FORD 565 W. JACKSON MORTON IL 61550 |

You, the Buyer (and Co-Buyer, if any), may buy the vehicle described below for cash or on credit. The cash price is shown below as "Cash Price." The credit price is shown below as "Total Sale Price." By signing this contract, you choose to buy the vehicle on credit under the agreements on the front and back of this contract.

| | | | | | |
|----------|---------------|-------|-----------------------|-------------------------------|--|
| New/Used | Year and Make | Model | GVW (if Truck (lbs.)) | Vehicle Identification Number | Use For Which Purchased |
| NEW | 2003 FORD | FOCUS | | 3FAFP37373R147305 | <input type="checkbox"/> Personal <input type="checkbox"/> Agricultural <input type="checkbox"/> Commercial |

| | | | |
|----------|---------------|-----------------|---------------|
| Trade-in | Year and Make | Gross Allowance | Amount Owning |
| | | N/A | N/A |

ITEMIZATION OF AMOUNT FINANCED

| | | |
|---|----|----------|
| 1. Cash Price | \$ | 15236.41 |
| 2. Down Payment | | |
| Cash Down Payment | \$ | 4250.00 |
| (Includes Third Party Rebate Assigned To Creditor of....) | \$ | 3250.00 |
| Deferred Down Payment Due | \$ | N/A |
| Trade-in (Description Above) | \$ | N/A |
| Total Down Payment | \$ | 4250.00 |
| 3. Unpaid Balance of Cash Price (1 minus 2) | \$ | 10986.41 |
| 4. Amounts to be Paid on Your Behalf (Seller, holder, or any of their affiliates may be retaining a portion of these amounts or may receive something of value in connection with these purchases). | | |
| To Public Officials | | |
| (i) for license, title & registration fees | \$ | 10.00 |
| (ii) for filing fees | \$ | N/A |
| (iii) for taxes (not in Cash Price) | \$ | 955.29 |
| To Insurance Companies for: | | |
| Vehicle Insurance | \$ | N/A |
| Credit Life Insurance | \$ | N/A |
| Credit Disability Insurance | \$ | N/A |
| To UNIVERSAL for SERVICE CONTRACT | \$ | 646.00 |
| To MIKE MURPHY FORD for DOCUMENTATION FEE | \$ | 48.00 |
| To _____ for _____ | \$ | N/A |
| To _____ for _____ | \$ | N/A |
| Total | \$ | 1659.49 |
| 5. Amount Financed (3 plus 4) | \$ | 12646.60 |

INSURANCE

YOU MAY OBTAIN VEHICLE INSURANCE FROM A PERSON OF YOUR CHOICE.

LIABILITY INSURANCE COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE CAUSED TO OTHERS IS NOT INCLUDED.

CREDIT LIFE, CREDIT DISABILITY AND OTHER OPTIONAL INSURANCE ARE NOT REQUIRED TO OBTAIN CREDIT AND WILL NOT BE PROVIDED UNLESS YOU SIGN AND AGREE TO PAY THE PREMIUM.

| | |
|--|--------------------|
| <input type="checkbox"/> Credit Life | Insurer |
| \$ N/A | Premium Insured(s) |
| Signature(s) | |
| <input type="checkbox"/> Credit Disability | Insurer |
| \$ N/A | Premium Insured |
| Signature | |

Credit Life and Credit Disability insurance are for the term of the contract. The amount and coverages are shown in a notice or agreement given to you on this date. Any credit insurance which you buy may be cancelled within 15 days of the date of this contract. To do so, send a written request to the Assignee named below, signed by you, any Co-Buyer, and any Guarantor. Upon cancellation, the entire charge for the credit insurance shall be refunded or credited to you.

You are required to insure the vehicle. If a charge is shown below, the Creditor will try to buy the coverages checked for the term shown. Coverages will be based on the cash value of the vehicle at time of loss, but not more than the limits of the policy.

| | |
|--|---|
| <input type="checkbox"/> Comprehensive | <input type="checkbox"/> \$ N/A Collision |
| <input type="checkbox"/> Fire-Theft-Combined Additional Coverage | |
| <input type="checkbox"/> Towing and Labor | |
| <input type="checkbox"/> Term | N/A Months (Estimate) |
| Premium \$ | N/A |

DOCUMENT FEE. A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING DOCUMENTS AND PERFORMING SERVICES RELATED TO CLOSING OF A SALE.

THE BASE DOCUMENTARY FEE BEGINNING JANUARY 1, 1992, WAS \$40. THE MAXIMUM AMOUNT THAT MAY BE CHARGED FOR A DOCUMENTARY FEE IS THE BASE DOCUMENTARY FEE OF \$40 WHICH SHALL BE SUBJECT TO AN ANNUAL RATE ADJUSTMENT EQUAL TO THE PERCENTAGE OF CHANGE IN THE BUREAU OF LABOR STATISTICS CONSUMER PRICE INDEX. THIS NOTICE IS REQUIRED BY LAW.

ACCORDING TO THE OFFICE OF THE ILLINOIS ATTORNEY GENERAL, CONSUMER FRAUD BUREAU, THE MAXIMUM ALLOWABLE DOCUMENT FEE FOR THE CALENDAR YEAR IS \$ 52.57

Rebate Program # to

QUESTIONS?



PLEASE CALL US AT 1-800-727-7000 or Visit us at www.fordcredit.com 01-001

FEDERAL TRUTH-IN-LENDING DISCLOSURES

| ANNUAL PERCENTAGE RATE | FINANCE CHARGE | Amount Financed | Total of Payments | Total Sale Price |
|--|--|--|---|--|
| The cost of your credit as a yearly rate | The dollar amount the credit will cost you | The amount of credit provided to you or on your behalf | The total cost you will have paid when you have made all scheduled payments | The total cost of your purchase on credit, including your down payment |
| 5.49 % | \$ 1874.00 | \$ 12646.00 | \$ 14520.00 | \$ 18770.00 |

| | | | |
|--------------------------------|---|------------------------|-----------------------------|
| Payment Schedule | <input type="checkbox"/> Number of payments | Amount of Each payment | When Payments are due |
| Your payment schedule will be: | 59 | 242.00 | monthly starting 11/25/2003 |
| | 1 final | 242.00 | |
| | <input type="checkbox"/> | | |

Prepayment: If you pay off your debt early, you will not have to pay a penalty.

Late Payment: You must pay a late charge on the portion of each payment received more than ten days late. The charge is five percent of the late amount or \$10.00, whichever is greater.

Security Interest: You are giving a security interest in the vehicle being purchased.

Contract: Please see this contract for additional information on security interest, nonpayment, default, the right to require repayment of your debt in full before the scheduled date, and prepayment penalty.

COMMERCIAL USE CONTRACTS: If you purchased the vehicle for commercial use, you must pay a late charge on the portion of each payment received more than 10 days late of 7.5% of the late amount or \$50.00, whichever is less.

Any change in this contract must be in writing and signed by you and the Creditor.

BUYER: X Loyda Torres CO-BUYER: X Anthony H Brown

YOU ACKNOWLEDGE THAT YOU HAVE READ AND AGREE TO BE BOUND BY THE ARBITRATION PROVISION ON THE REVERSE SIDE OF THIS CONTRACT.

NOTICE TO BUYER

- Do not sign this agreement before you read it or if it contains any blank spaces.
- You are entitled to an exact copy of the agreement that you sign.
- Under the law you have the right, among others, to pay in advance the full amount due and to obtain under certain conditions a partial refund of the finance charge.

Buyer acknowledges receipt of a true and completely filled in copy of this contract at the time of signing.

RETAIL INSTALLMENT CONTRACT

X Loyda Torres Buyer Signs X Anthony H Brown (Co) Buyer Signs

By signing below, the seller accepts this contract. If no other Assignee is named in a separate assignment attached to this contract, the seller assigns it to Ford Motor Credit Company.

Seller MIKE MURPHY FORD By Monette Bodnar Title Agent

EXHIBIT B

ORIGINAL

LOYDA TORRES

| Trade-In | BODY TYPE | Model No. | M.S.R.P. | Weight | Loan | Retail |
|---|--|-----------|----------|--------|-------|--------|
| FORD | | | | | | |
| 2003 FOCUS-4 Cyl. | | | | | | |
| Veh. Ident.: (F)A(P)(Model)(I)(J)3(I)100001 Up. | | | | | | |
| 8050 | Hatchback 3D ZX3 | 31 | \$12680 | 2593 | 7250 | 9050 |
| 11900 | Hatchback 3D SVT (6 Spd.) | 39 | 18380 | 2750 | 10725 | 14150 |
| 9400 | Hatchback 5D ZX5 | 37 | 15385 | 2675 | 8475 | 11350 |
| 11900 | Hatchback 5D SVT (6 Spd.) | 37 | 19085 | 2750 | 10725 | 14150 |
| 7125 | Sedan 4D LX | 33 | 12990 | 2586 | 6425 | 8200 |
| 8300 | Sedan 4D SE | 34 | 14660 | | 7475 | 10125 |
| 9250 | Sedan 4D ZTS | 38 | 15580 | | 8325 | 11175 |
| 9000 | Wagon 4D SE | 36 | 14325 | 2683 | 8100 | 10675 |
| 10300 | Wagon 4D ZTW | 36 | 17355 | | 9275 | 12325 |
| 850 | Add European Appearance Pkg. (SVT) | | | | 850 | 850 |
| 250 | Add Aluminum/Alloy Wheels (LX) | | | | 250 | 300 |
| 225 | Add Audiophile Stereo System | | | | 225 | 225 |
| 100 | Add CD Player (LX, SE Wagon) | | | | 100 | 125 |
| 175 | Add Cruise Control (ZX3, ZX5, LX, SE) | | | | 175 | 200 |
| 325 | Add Leather Seats (Std. SVT) | | | | 325 | 375 |
| 125 | Add Power Locks (ZX3, LX, SE Wagon) | | | | 125 | 150 |
| 450 | Add Power Sunroof | | | | 450 | 500 |
| 175 | Add Power Windows (ZX3, LX, SE Wagon) | | | | 175 | 200 |
| 75 | Add Theft Recovery System | | | | 75 | 100 |
| 125 | Add Tilt Steering Wheel (ZX3, ZX5, LX, SE) | | | | 125 | 150 |
| 550 | Deduct W/out Air Conditioning | | | | 550 | 500 |
| 475 | Deduct W/out Automatic Trans. (Ex. SVT) | | | | 475 | 475 |
| 2003 ZX2-4 Cyl. | | | | | | |
| Veh. Ident.: 3FAFP113(I)3R100001 Up. | | | | | | |
| 7250 | Coupe 2D | 11 | \$12940 | 2478 | 6525 | 8025 |
| 100 | Add Compact Disc Player | | | | 100 | 125 |
| 175 | Add Cruise Control | | | | 175 | 200 |
| 325 | Add Leather Seats | | | | 325 | 375 |
| 125 | Add Power Door Locks | | | | 125 | 150 |
| 450 | Add Power Sunroof | | | | 450 | 500 |
| 175 | Add Power Windows | | | | 175 | 200 |
| 75 | Add Theft Recovery System | | | | 75 | 100 |
| 125 | Add Tilt Steering Wheel | | | | 125 | 150 |
| 550 | Deduct W/out Air Conditioning | | | | 550 | 500 |
| 475 | Deduct W/out Automatic Trans. | | | | 475 | 475 |
| 2003 MUSTANG-V6 | | | | | | |
| Veh. Ident.: 1FAFP(Model)4(I)3F100001 Up. | | | | | | |
| 11150 | Coupe 2D | 40 | \$17475 | 3066 | 10050 | 13300 |
| 14125 | Convertible 2D | 44 | 23145 | 3208 | 12725 | 16575 |
| 2003 MUSTANG-V8-5/6 Spd./AT | | | | | | |
| Veh. Ident.: 1FAFP(Model)4(I)3F100001 Up. | | | | | | |
| 15875 | Coupe 2D GT | 42 | \$23345 | | 14300 | 18425 |
| 19775 | Coupe 2D MACH 1 | 42 | 28370 | | 17800 | 22800 |
| 23800 | Coupe 2D Cobra | 48 | 33125 | 3665 | 21425 | 27200 |
| 24625 | Coupe 2D Cobra 10th Anniv. | 48 | 34620 | | 22175 | 28075 |
| 18650 | Convertible 2D GT | 45 | 27620 | | 16800 | 21400 |
| 26575 | Convertible 2D Cobra | 49 | 37370 | 3780 | 23925 | 30100 |
| 27400 | Convertible Cobra 10th Anniv. | 49 | 38865 | | 24675 | 31100 |
| MUSTANG OPTIONS | | | | | | |
| 250 | Add Pony Package (V6) | | | | 250 | 300 |
| 450 | Add Leather Seats (Std. MACH 1, Cobra) | | | | 450 | 500 |

ADJUST FOR MILEAGE - ADJUST FOR CONDITION
MIDWEST EDITION - OCTOBER 2004

| Trade-In | BODY TYPE | Model No. | M.S.R.P. | Weight | Loan | Retail |
|---|---|-----------|----------|--------|-------|--------|
| FORD | | | | | | |
| 275 | Add MACH Stereo (Std. MACH 1, Cobra) | | | | 275 | 325 |
| 200 | Add Power Seat (Coupe V6) | | | | 200 | 225 |
| 75 | Add Theft Recovery System | | | | 75 | 100 |
| 575 | Deduct W/out Automatic Trans. (V6) | | | | 575 | 575 |
| 200 | Deduct W/out Cruise Control | | | | 200 | 200 |
| 2003 TAURUS-V6 | | | | | | |
| Veh. Ident.: 1FA(P)(Model)(I)(J)3(I)100001 Up. | | | | | | |
| 8475 | Sedan 4D LX | 52 | \$19180 | 3343 | 7650 | 10375 |
| 9075 | Sedan 4D SE | 53 | 19695 | | 8175 | 11100 |
| 9775 | Sedan 4D SEL | 55 | 21020 | | 8800 | 11825 |
| 11050 | Sedan 4D SEL | 56 | 22920 | 3322 | 9950 | 13250 |
| 10375 | Wagon 4D SE | 58 | 21345 | 3514 | 9350 | 12525 |
| 11950 | Wagon 4D SEL | 59 | 23170 | | 10775 | 14200 |
| 400 | Add 3.0L Duratec V6 Engine (Std. Sedan SEL) | | | | 400 | 450 |
| 300 | Add Aluminum/Alloy Wheels (LX) | | | | 300 | 350 |
| 100 | Add Compact Disc Player (Std. SES, SEL) | | | | 100 | 125 |
| 450 | Add Leather Seats | | | | 450 | 500 |
| 275 | Add MACH Stereo System | | | | 275 | 325 |
| 200 | Add Power Seat (Std. SES, SEL) | | | | 200 | 225 |
| 550 | Add Power Sunroof | | | | 550 | 625 |
| 75 | Add Theft Recovery System | | | | 75 | 100 |
| 200 | Deduct W/out Cruise Control | | | | 200 | 200 |
| 250 | Deduct W/out Third Seat (Wagon) | | | | 250 | 250 |
| 2003 CROWN VICTORIA-V8 | | | | | | |
| Veh. Ident.: 2FA(P)(Model)W(I)3X100001 Up. | | | | | | |
| 11425 | Sedan 4D S | 72 | \$23465 | | 10300 | 13725 |
| 11675 | Sedan 4D | 73 | 23990 | 4057 | 10525 | 14000 |
| 13400 | Sedan 4D LX | 74 | 27075 | | 12075 | 15850 |
| 15150 | Sedan 4D LX Sport | 74 | 28795 | | 13650 | 17725 |
| 12450 | Sedan 4D S Extended | 70 | 25490 | | 11225 | 14850 |
| 375 | Add Handling Package (Std. LX Sport) | | | | 375 | 425 |
| 350 | Add Aluminum/Alloy Wheels (Std. LX Sport) | | | | 350 | 400 |
| 150 | Add Compact Disc Player (Std. 74) | | | | 150 | 175 |
| 500 | Add Leather Seats (Std. LX Sport) | | | | 500 | 575 |
| 75 | Add Theft Recovery System | | | | 75 | 100 |
| 225 | Deduct W/out Cruise Control | | | | 225 | 225 |
| 225 | Deduct W/out Power Seat | | | | 225 | 225 |
| 2003 THUNDERBIRD-V8 | | | | | | |
| Veh. Ident.: 1FAHP60A(I)3W100001 Up. | | | | | | |
| 24900 | Convertible 2D | 60 | \$36340 | 3775 | 22425 | 28675 |
| 800 | Add Removable Hardtop | | | | 800 | 900 |
| 75 | Add Theft Recovery System | | | | 75 | 100 |
| FORD | | | | | | |
| 2002 FOCUS-4 Cyl. | | | | | | |
| Veh. Ident.: (F)A(P)(Model)(I)(J)2(I)100001 Up. | | | | | | |
| 6500 | Hatchback 3D ZX3 | 31 | \$12415 | 2598 | 5850 | 8075 |
| 9900 | Hatchback 3D SVT (6 Spd.) | 39 | 17505 | 2770 | 8925 | 11975 |
| 7750 | Hatchback 5D ZX5 | 37 | 15615 | 2699 | 6975 | 9475 |
| 5650 | Sedan 4D LX | 33 | 12730 | 2604 | 5100 | 7175 |
| 6700 | Sedan 4D SE | 34 | 14320 | 2564 | 6050 | 8300 |
| 7525 | Sedan 4D ZTS | 38 | 15240 | 2551 | 6775 | 9225 |
| 7600 | Wagon 4D SE | 36 | 16525 | 2717 | 6850 | 9300 |
| 6700 | Wagon 4D ZTW | 36 | 17705 | 2717 | 7850 | 10550 |

ADJUST FOR MILEAGE - ADJUST FOR CONDITION
MIDWEST EDITION - OCTOBER 2004

EXHIBIT C

04-04148-0

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:
Anthony H Brown,

Debtor,


Case No. 04-33984
Chapter 13 Case

VERIFICATION FOR MOTION FOR RELIEF FROM STAY

I, Mary Holliday, the Designated Agent for Ford Motor Credit Company, the Creditor herein, declare under penalty of perjury that the following is true and correct according to the best of my knowledge, information and belief, and based on the Creditor's business records:

1. I am legally competent to testify and am personally familiar with the debt owed by Debtor to the Creditor on account no. 35513135.
2. The Debtor owes the Creditor \$11,103.35, payoff amount as of October 6, 2004. The monthly loan payment is \$242.00. As of October 6, 2004, the loan payments are in arrears \$482.00 for payments owing since August 25, 2004. Loyda Torres is a cosigner on the loan documents and is jointly liable for the debt.
3. The debt owed to Creditor is secured by a perfected lien on a 2003 FORD FOCUS VEHICLE.
4. Debtor's plan states the vehicle is in the possession of his estranged wife and she is to make the payments directly to the Creditor.
5. True and correct copies of the title documents are attached to the Motion as Exhibit "A". True and correct copies of the loan documents are attached as Exhibit "B".
6. Loan documents require insurance be maintained to protect the Creditor's interest in the collateral. No evidence of insurance has been provided since filing.

Dated: 10-7-04


Mary Holliday

Ford Motor Credit Company
National Bankruptcy Svc Center
P.O. Box 537901
Livonia, MI 48153-7901

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:
Anthony H Brown,
Debtor,

Case No. 04-33984
Chapter 13 Case

MEMORANDUM OF FACT AND LAW

Ford Motor Credit Company ("Movant") submits this Memorandum of Fact and Law in support of its motion for relief from the stay.

FACTS

Movant is the holder of a secured claim, and is thus a party in interest. Movant has a valid and perfected security interest in the collateral.

The total net balance due on the Contract is \$11,103.35 as of October 6, 2004.

Debtor's Chapter 13 Plan has been filed with the Court. The terms of the Chapter 13 Plan provides for no payment through Debtor directly or from the Trustee on its secured claim. The Plan states the Debtor's estranged wife is to make the payments. Such payments are presently delinquent.

Movant's collateral is subject to depreciation in that the collateral is being used, subjecting the same to wear and tear, while Debtor is failing to make payments. There has been a further material default; Debtor has failed to provide Movant with evidence of collateral insurance.

The Contract is co-signed by Loyda Torres who is also a co-owner of the vehicle. The codebtor may be in possession of the vehicle.

ARGUMENT

Pursuant to 11 U.S.C. §362(d)(1), a creditor is entitled to relief from the automatic stay "for cause, including the lack of adequate protection of an interest in property of such creditor." In this case, there is a lack of adequate protection as follows:

- Failure to make the payments required by the Contract since August 25, 2004.

- Failure to make payments due post petition under the Contract.
- Failure to maintain physical damage insurance on the collateral.

Movant has not been provided with adequate protection of Movant's interest in the collateral.

Such circumstances constitute cause, within the meaning of §362(d)(1), justifying relief from the stay.

See, United States Association of Texas v. Timbers of Inwood Association, Ltd. (In re Timbers of Inwood Association, Ltd.), 484 U.S. 365, 108 S.Ct. 626, 98 L.Ed. 2d 740 (1988); In re Reinbold v. Dewey County Bank, 942 F.2d 1304, 1306 (8th Cir. 1991). Pursuant to 11 U.S.C. §362(g), the burden is on the Debtor to prove adequate protection and/or absence of cause.

Pursuant to 11 U.S.C. §1301(c)(1), a creditor is entitled to relief from the codebtor stay "to the extent that ... such individual received the consideration for the claim held by such creditor". The codebtor received consideration for the claim upon becoming an owner of the vehicle.

Pursuant to 11 U.S.C. §1301(c)(2), a creditor is entitled to relief from the codebtor stay "to the extent that ... the plan filed by the debtor proposes not to pay such claim."

Bankruptcy Rule 4001(a)(3) imposes a stay of 10 days which the court may, in its discretion, order is not applicable so that Movant may immediately enforce and implement the order granting relief. Advisory Committee Notes to 1999 Amendments to Bankruptcy Rule 4001.

Dated: October 8, 2004

STEWART, ZLIMEN & JUNGERS, LTD.

/e/ Linda Jeanne Jungers

Linda Jeanne Jungers, Atty ID #5303X

Attorneys for Movant

430 Oak Grove Street #200

Minneapolis, MN 55403

612-870-4100

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:
Anthony H Brown,
Debtor,

Case No. 04-33984
Chapter 13 Case

UNSWORN CERTIFICATE OF SERVICE

I, Linda Jeanne Jungers, declare under penalty of perjury that on October 8, 2004, I mailed copies of the attached Notice of Hearing and Motion for Relief from the Stay with Exhibits, Verification, Memorandum of Fact and Law, Certificate of Service, and proposed Order, by first class mail postage prepaid to each entity named below at the address stated below for each entity.

Anthony H Brown
421 Mary St S
Maplewood, MN 55119

Loyda Torres
1224 Glenbrooke Ave N #311
Oakbrook, MN 55128

Curtis K. Walker
4356 Nicollet Ave S
Minneapolis, MN 55409

Jasmine Z. Keller
Chapter 13 Trustee
12 S. 6th St #310
Minneapolis, MN 55402

U.S. Trustee
1015 U.S. Courthouse
300 South 4th Street
Minneapolis, MN 55415

Executed on: October 8, 2004

Signed: /e/Linda Jeanne Jungers
Linda Jeanne Jungers
STEWART, ZLIMEN & JUNGERS
430 Oak Grove Street, #200
Minneapolis, MN 55403

04-04148-0

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:
Anthony H Brown,
Debtor,

Case No. 04-33984
Chapter 13 Case

ORDER FOR RELIEF FROM THE STAY

Ford Motor Credit Company's Motion for an order granting relief from the stay came before the Court on October 25, 2004 at 9:30 AM o'clock.

Based on the arguments of counsel, all the files, records and proceedings herein, the court being advised in the premises, and the court's findings of fact and conclusions of law, if any, having been stated orally and read in open court following the close of evidence,

IT IS HEREBY ORDERED:

1. The automatic stay is modified to permit Ford Motor Credit Company to repossess and sell the
2003 FORD FOCUS, VIN 3FAFP37373R147305
in accordance with applicable state law.
2. The codebtor stay is hereby modified to permit Movant to proceed with its state court remedies against Loyda Torres.
3. Notwithstanding Federal Rule of Bankruptcy Procedure 4001(a)(3), this Order is effective immediately.

Dated: _____

United States Bankruptcy Judge